



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
Northwest Region  
7600 Sand Point Way N.E., Bldg. 1  
Seattle, WA 98115

Refer to:  
OSB1999-0072

April 23, 1999

Fred Patron  
Federal Highway Administration  
The Equitable Center, Suite 100  
530 Center St. NE  
Salem, Oregon 97301

RE: Biological Opinion for the Cook Creek Culvert Project

Dear Mr. Patron:

The National Marine Fisheries Service (NMFS) has received your March 31, 1999, request for consultation under the Endangered Species Act (ESA) for a site specific culvert project. The current culvert outlet is perched 12 inches, making entry into the culvert difficult for juveniles at low flow. Also, part of the culvert has a 5 percent slope which can create a velocity barrier for small fish. The proposed action would replace the current 60 inch culvert with a 7 foot diameter corrugated metal pipe. The inlet of the new pipe would be at the same location, but the outlet would be skewed to the east approximately 15 feet to match the slope and channel of the stream below the culvert. Concrete headwalls may be needed, and stone embankments would be constructed out of Class 50 riprap at the new inlet and outlet. Shrubs and trees would be planted to replace impacted vegetation. The action as proposed for 1999 is within the scope of the category of actions described in the attached biological report. This letter and attached biological report constitutes the NMFS Biological Opinion and formal consultation.

This project is described in the individual biological assessment (IBA) and the Program Biological Assessment (PBA) previously submitted and as referenced in the attached biological report.

This opinion considered the effects of the proposed action on the Oregon Coast coho salmon (OC coho) (*Oncorhynchus kitsutch*) which occur in the project area. Winter steelhead and cutthroat trout reside in Cook Creek. Repairing passage would open up 2 miles of potential habitat to coho, steelhead and cutthroat.

The current status, biological information, and critical habitat elements for OC coho are referenced in Table 1 in the attached biological report. The NMFS has applied jeopardy standards as further described in the biological report. The environmental baseline for the action area is described in the IBA.




The NMFS has determined that actions that do not maintain or restore properly functioning stream conditions would likely jeopardize the OC coho.

The effects of the proposed actions have been considered using the methods described in "Making ESA Determinations of Effect for Individual or Grouped Actions at the Watershed Scale". The effects of the proposed action have been evaluated based on ODOT's General Minimization and Avoidance Measures, as attached. The effects of this action are expected to restore properly functioning conditions and not cause further degradation of the environmental baseline. NMFS does not expect this action to diminish the value of the critical habitat for survival of OC coho. NMFS has determined, based on available information, that the proposed action covered in this opinion is not likely to jeopardize the continued existence of the indicated species.

Taking of indicated species is not prohibited provided that the taking is incidental to the agency's action and that the action is consistent with the reasonable and prudent measures and the terms and conditions as specified in Section X of the biological report.

Questions regarding this letter should be directed to Nancy Munn (503/231-6269) of my staff.

Sincerely,

A handwritten signature in blue ink, appearing to read "William Stelle, Jr.", is positioned above the typed name.

William Stelle, Jr.  
Regional Administrator

cc: Pieter Dykman, ODOT Research Unit Manager  
Randy Floyd, ODOT Wildlife Biologist  
Randy Reeve, Oregon Department of Fish and Wildlife